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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/902,838	07/11/2001	John Stewart Denker	2000-0300	9503

7590

05/04/2005

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EXAMINER
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LEE, BENJAMIN C

ART UNIT	PAPER NUMBER
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2632

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/902,838

Applicant(s)

DENKER ET AL.

Examiner

Benjamin C. Lee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2004.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-26 and 43-45 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-26 and 43-45 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## **Response To Request For Reconsideration**

### **Claim Status**

1. Claims 1-26 and 43-45 are pending.

### ***Claim Rejections - 35 USC § 103***

2. Claims 1-26 and 43-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson (US pat. #5,845,227) as stand in the previous Office action.

### ***Response to Arguments***

3. Applicant's arguments filed 11/9/04 have been fully considered but they are not persuasive.

1) Applicant argued that the Peterson reference does not meet or suggest the claimed invention of claim 1 as presented in the previous Office action rejection. Specifically, col. 4, lines 40-43 of the Peterson patent is directed to handoff from cell to cell in a cellular phone system in the context of transmitting instantaneous rate information.

In the context of col. 4, lines 32-50 and col. 7, lines 54-56 (as relied upon in the rejection) of Peterson, "instantaneous rate information" is referring to the elapse time required to traverse a route segment, i.e. how much time, or how fast, and hence rate of traverse, it takes to traverse that route segment. Furthermore, elapse time determination using cell hand-offs for a route segment having a starting-point and an end-point would have been obvious to one skilled in the art to be determined by tracking the clock time at the starting-point location (using a cell base station identifier) and the clock time at the end-point location (using another cell base station identifier) of a mobile body, then taking the difference of the clock times from the Peterson disclosure. Therefore, while Peterson may have worded it differently from the claims, it is clear

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that Peterson met or suggested every limitation of the claimed invention as explained in the Office action rejection, including the use of cellular hand-offs for calculating elapse time of route segments involving use of time and location tracking at the route segment starting-points and end-points. In this case, Peterson disclosed the overall concept of the claimed invention of claim 1 without specifying all the steps involved as claimed, while those unspecified steps are obvious to one skilled in the art as indicated. Therefore, Graham vs. John Deere consideration have been properly applied in the rejection, and not merely based on hindsight.

2) Applicant's arguments regarding claims 10, 19, 43 and depending claims are based on those regarding claim 1, and therefore are similarly rebutted.

3) Regarding claims 5-6 and 14-15, the use of Cell Tour Identification Number or a Base Station Identifier in cellular handoffs procedure and determination are well known and conventional in the cellular communication art, and thus one skilled in the art would have readily recognized that the unique identifiers used in cellular handoffs are Cell Tour Identification Numbers or Base Station Identifiers as indicated in the Office action without warrant further explanation in the Peterson system that performs cellular handoffs. Furthermore, US 5917811 is being cited as an illustrative example.

4) In conclusion, Applicant's arguments are not deemed persuasive, and the rejection is maintained as being properly applied.

#### **Prior Art Citation**

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Weaver, Jr. et al., US pat. #5,917,811, see Abstract and col. 4, lines 28-46.

#### **Conclusion**

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5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

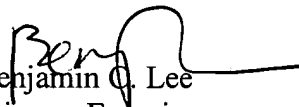
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin C. Lee whose telephone number is (571) 272-2963. The examiner can normally be reached on Mon -Fri 11:00Am-7:30Pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Wu can be reached on (571) 272-2964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Benjamin Q. Lee  
Primary Examiner  
Art Unit 2632

B.L.